therefore apply this standard to the present case. It is a well known principle that a parent is not liable for the negligence of his child unless the child is his servant or agent. He is however liable for his own negligence and is under a duty to exercise such control over his children as a prudent parent would exercise.

However when you look at it the defendants had done all they could to ensure that the students obeyed their instructions. There is no evidence that the students did not follow such instructions. The picnic was organised at the request of the students themselves to their form teachers who obtained permission from the principal. It was therefore for the students' benefit that the picnic was arranged. The principal prepared a circular and each student was given a copy to take home. The students were all in the 6th year. They were divided into three groups. Two teachers were assigned to look after each group. The principal himself was in overall control of the groups. When they reached the beach the teachers had charge of all students with the principal again in overall control. Three teachers were spread out in the deeper part of the water with the principal farther away in front. The object was to prevent students from venturing to the deeper part. Students played game under supervision. The girls were playing a game one would expect normal and healthy girl students to indulge in. There is no evidence that they had gone to play in the deeper part of the water. In fact P.W.6 had said that the teachers had advised them not to go to the deeper part. These students were old enough to understand such warning. There were at the time only 4 teachers (including the principal). They had taken steps to supervise the students and to keep watch over them while they were playing in the water. There is no evidence that there was known danger or trap on that stretch of the beach where the children were playing. The depression was unsuspected.

The teachers had done all they possibly could to ensure the safety of the students. There is no evidence to show that any of the teachers had been at fault or neglected their duty thus causing deceased to get drowned. The amount of supervision required depends on the age of the students and what they were doing at the time. The teachers had done more than was necessary. They kept the students under continuous supervision. There was nothing the teachers, or for that matter any other person, could do to fight against an unfortunate occurrence of circumstances. In my view looking at the facts I am inclined to agree with Mr. Yong that there was adequate supervision. It is difficult to see how such a case could be brought against the three defendanst. Viscount Cave L.C. in his judgment in *Mersey Docks and Harbour Board* v. *Procter* [10] referred to *Wakelin* v. *London South Western Ry. Co.*[11] which mentioned that

> "this House, affirming the Court of Appeal, held that, assuming (but without deciding) that there was negligence on the part of the company, there was no evidence to connect the negligence with the accident, and accordingly that there was no evidence to go to the jury."

Halsbury L.C. stated the principle as follows:—

> "It is incumbent upon the plaintiff in this case to establish by proof that her husband's death has been caused by some negligence of the defendants, some negligence of the defendants, some negligent act, or some negligent omission, to which the injury complained of in this case, the death of the husband is attributable. That is the fact to be proved. If that fact is not proved the plaintiff fails, and if in the absence of direct proof the circumstances which are established are equally consistent with the allegation of the plaintiff as with the denial of the defendants, the plaintiff fails, for the very simple reason that the plaintiff is bound to establish the affirmative of the proposition: *'Ei qui affirmat non ei qui negat incumbit probatio.'*"

I think these expressions apply with equal force in the present case. I sympathise with plaintiff but he has undertaken to prove that defendants are responsible for what happened. I regret that having regard to the evidence I am bound to hold that the plaintiff has not established on the balance of probabilities that defendants were in anyway negligent. This being so, I dismiss his claim with costs to be taxed.

Claim dismissed.

UNITED OVERSEAS BANK LTD. v. SINGAPORE ENGINEERS LTD.

[O.C.J. (Winslow J.) June 17, 1966]

[Singapore — Civil Suit No. 1535 of 1965]

Assignment — Equitable assignment — Letter of authority to transfer.

In this case a company, the Gim Guan Company, wrote to the chairman, Housing and Development Board, as follows:—

> "We hereby authorize you to make all future payments direct to our bankers, the United Chinese Bank Limited, Bonham Building, Chulia Street, Singapore, 1, against bills submitted to you for projects undertaken by us for the board".

This letter was acknowledged by the chairman. The issue raised in this case was whether the letter constituted a valid equitable assignment to the plaintiff bank.

Held: the letter constituted a valid equitable assignment by the company in favour of the bank of all payments due to the company by the Housing and Development Board.

Cases referred to:—

(1) *Bell* v. *London and North-Western Rly. Co.* 51 E.R. 651.

(2) *Crowfoot & Ors.* v. *W.B. Gurney* 131 E.R. 655.

(3) *Yeo Chiang Swee* v. *United Decorators* [1933] M.L.J. 85.

(4) *Holt* v. *Heatherfield Trust Ltd.* [1942] 1 All E.R. 404.

(5) *William Brandt's Sons & Co.* v. *Dunlop Rubber Co.* [1905] A.C. 462.

CIVIL SUIT (Interpleader issue).

K. S. Chung for the claimant/plaintiff.

Lim Koon Teck for the defendant.

Cur. Adv. Vult.

Winslow J.: The issue which I have to try here is whether a letter dated 27th June, 1962 written by Gim Guan Co., Ltd. to the Chairman, Housing & Development Board, Singapore, is a valid equitable assignment by Gim Guan Co., Ltd. (hereinafter known as "the company") in favour of the plaintiff, United Overseas Bank Ltd. formerly known as the United Chinese Bank Ltd. (hereinafter referred to as "the bank") of all payments due to the company by the said Housing & Development Board. The letter (Exhibit AB1) dated 27th June, 1962 is in the following terms:—

"We hereby authorise you to make all future payment direct to our bankers, The United Chinese Bank Limited, Bonham Building, Chulia Street, Singapore, 1, against bills submitted to you for projects undertaken by us for the board.

Kindly acknowledge receipt of this letter."

The board replied to this letter as follows on 3rd July, 1962 (Exhibit AB3):—

"With reference to your letter dated 27th June 1962, it is agreed that all future payments will be made direct to your Bankers, United Chinese Bank Ltd., Bonham Building, Chulia Street, Singapore against bills submitted to the board for projects undertaken by you for the board.

The finance department will be advised to forward all cheques for future payments on all contracts to you to be posted to the United Chinese Bank Ltd."

I have been impressed by the authorities cited by Mr. K. S. Chung, counsel for the bank, which leave no doubt in my mind that the letter in question was in fact a valid equitable assignment by the company in favour of the bank of all payments due to the company by the said board.

Bell v. *The London and North-Western Railway Co.*[1] is a clear authority in support of the bank's contention. In that case one Thomas Burton, a railway contractor, wrote a letter asking the railway company to pass any cheques that should become due to him on his contract with the railway company into the National Provincial Bank of England to his account. It was held by the Master of the Rolls (Sir John Romilly) that this was not an equitable assignment. But the Master of the Rolls went on to add —

"If the letter had been simply, 'You will oblige by passing the cheques that may become due on my contract No. 1 of the Rugby and Stamford Railway to the National Provincial Bank of England', I should have thought that an effectual assignment of all that might become due to Thomas Burton under that contract had been made to the bank; . . .".

Another authority in support of the bank's contention, where the facts are similar to those in the present case, is *Crowfoot & Others* v. *W. B. Gurney.*[2] In that case one Streather asked Gurney, the treasurer of the Baptist College Chapel who owed money to Streather for works done in erecting the chapel and other buildings, to pay the balance due to him to one Solly. Gurney agreed to do so. It was held that these circumstances amounted to an equitable assignment to Solly of the debt due from Gurney to Streather.

Alderson J. in the course of his judgment in that case referred to another case in support of this decision where the court held

"that although a creditor had a right to insist on payment to himself or to his appointee, yet, having once given an order for the payment of his debt to a third person, he had no right to revoke that order, provided there was a pledge by the person, to whom the authority was given, that he would pay the debt according to the authority. That case is decisive of the present."

It will be seen from the above that Mr. Lim Koon Teck, counsel for the defendant, the judgment creditor, had to battle against heavy odds in the form of indisputable authorities in favour of the bank's claim including even some of the cases to which he, himself, referred.

He contended that there was no evidence of any indebtedness to the bank on the part of the company and that, therefore, exhibit AB1 was merely an authority to pay a collecting agent. He also argued that some 18 subsequent letters from the company authorising the board to make payments to various sub-contractors for labour and supplies out of the monies due to the company had revoked the authority of exhibit AB1 which could not, therefore, be regarded as irrevocable.

Before proceeding to consider his argument against the construction of exhibit AB1 as an absolute equitable assignment it should be noted that, from the case of *Yeo Chiang Swee* v. *United Decorators*[3] and *Holt* v. *Heatherfield Trust, Ltd.*[4] it is clear that the equitable assignee has priority over a subsequent garnishor and the only question, therefore, for decision is whether exhibit AB1 does in fact amount to such an assignment.

Now, with regard to Mr. Lim's submission that exhibit AB1 is a mere revocable letter of authority to pay an agent, it should be noted that an equitable assignment requires no particular form of words. As Lord Macnaghten said in *William Brandt's Sons & Co.* v. *Dunlop Rubber Co.*[5]

"It may be addressed to the debtor. It may be couched in the language of command. It may be a courteous request. It may assume the form of mere

permission. The language is immaterial if the meaning is plain. All that is necessary is the debtor should be given to understand that the debt has been made over by the creditor to some third person. If the debtor ignores such a notice, he does so at his peril."

There is, in my view, nothing in exhibit AB1 which encourages the conclusion that it merely authorises payment to an agent, or, for that matter, a collecting agent. There is a clear direction to the board to make all future payments to the bank against bills submitted for projects undertaken by the company for the board. It was not, incidentally, as Mr. Lim suggested, a future payment of such a nebulous or indefinite character as to make the assignment bad. As Tindal C.J. said in *Crawfoot's* case *supra*, at page 656:

"It has been objected that such an assignment could not take place except in respect of a precise and ascertained amount. I cannot concur in that proposition, because all that can be required is, that the debt assigned should not be larger than the sum due to the party assigning".

Here, there could never have been any question of a larger sum being assigned than the sum due and the authority was to pay the bank direct whatever became due. The bank was to receive the money for itself, not to account of or on behalf of the company or as its agent. The mere fact that the company may have an account with the bank does not operate to constitute the latter an agent of the company of all monies authorised to be paid direct to the bank. If that had been the intention, exhibit AB1 could have easily said so.

Secondly, the fact that no indebtedness has been proved as between the company and the bank, does not prevent the inference that the assignment was by way of security. It can hardly be said that the company authorised the payments to the bank as voluntary donations on its part nor can the bank be held, by any stretch of imagination, to be a charitable institution of any kind whom the company intended to benefit. The conclusion is irresistible that there were financial facilities accorded by the bank to the company which the company wished to discharge. I think I ought also to say a few words about exhibit AB2 dated 27th June, 1962 which is a letter from the bank asking the board to confirm that it will make the payments due to the company to the bank in accordance with exhibit AB1. This letter, in my view, supports the bank's case in that, if it had merely been intended that the bank should hold the amount as agent of the company or to its account, it need not necessarily have written to ask for confirmation from the board.

Thirdly, the fact that the company, subsequent to the assignment, authorised the board to make small payments to sub-contractors and others out of monies due from the board does not, in my view, destroy the validity of the assignment or effect its revocation. Exhibit AB1 authorises payment "against bills submitted to the board" by the company. There was, in my opinion, nothing to prevent the company from submitting bills which took into account and made deductions in respect of monies advanced to it by the board from time to time. It was the final amounts due to the company as and when bills were submitted which were assigned. On a taking of accounts the board would know exactly what was due on each project to the company and was bound to pay it to the bank.

Finally, I have given careful consideration to the question whether it could have been the intention of all the parties to this triangular arrangement, i.e. the company, the bank and the board, that the monies due to the company should, in fact, be credited to the company's account with the bank, although exhibit AB1 does not in so many words direct payment to the bank on behalf of the company or to its account. From a careful examination of all the documents in the agreed bundle of correspondence it seems to me that this was not in fact their intention. From exhibit AB8 it is clear that the last payment of the balance due to the company was made out by a cheque payable to the bank. Knowing that execution had been levied against the company for debts due by it to various creditors it is most unlikely that the board would have made out a cheque in favour of the bank if such monies were merely to be held by the bank to the credit of the company's account. It should be noted that exhibit AB8, purports to be signed by the assistant secretary (legal) to the board who I am sure would have realised the implications of making such a payment to the bank *viz.*, that the bank would be receiving the monies on its own behalf and not on behalf of the company.

For these reasons I have no doubt that the bank is entitled to succeed with costs on the determination of this issue which I hereby decide in its favour.

Order accordingly.

Solicitors: *Chung & Co.; J. Y. P. Chia & Co.*

SHARIKAT BAKTI LTD. v. GURBACHAN SINGH

[O.C.J. (Gill J.) June 14, 1966]

[K.L. — Civil Suit No. 388 of 1966]

Practice and Procedure — Order 14 — Application for leave to sign judgment — Claim for declaration that defendant was trespasser of land and for order to deliver and vacate possession — Defence of estoppel — R.S.C. 1957, O. 14.

The plaintiffs applied under Order 14 of the Rules of the Supreme Court, 1957 for leave to sign final judgment against the defendant on a claim for a declaration